

November 16, 2023
Sl. No. 21
Court No.2
s.biswas

**In the Calcutta High Court
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 1204 of 2023

Biplab Das

vs.

The Vice Chancellor, University of North Bengal and others

Mr. Arik Banerjee

Mr. Joyjit Dutta

Mr. Bikash Singha

... for the petitioner

Mr. Joyjit Choudhury, Id. AAG

Mr. Ajay Singhal

Mr. Abhishek Singh

... for the respondent nos.1 & 2

Mr. Anirban Banerjee

... for the respondent nos.3 and 4

It appears that the petitioner was suspended from service in contemplation of a disciplinary proceeding. Along with the letter of suspension, the charge-sheet was submitted.

The petitioner challenges the entire disciplinary proceedings on the following grounds:

- a) No preliminary enquiry was held before such suspension was made;
- b) The charge-sheet was served without supplying the documents relied upon by the authority;
- c) The disciplinary proceeding was continuing contrary to law;

d) Subsistence allowance has not been paid to the petitioner.

Mr. Choudhury, the learned Additional Advocate General, submits that a preliminary enquiry is going on, which is not in the nature of a disciplinary proceeding.

It appears that the college has filed a report which indicates that the enquiry is being held, which is in the nature of departmental enquiry and the said enquiry is continuing. The college has taken a stand that it is not the requirement of law to issue a show cause before issuing any charge-sheet, to which, this court prima facie agrees.

However, the law requires payment of subsistence allowance during the period of suspension as also supply of relied upon documents to the suspended employee against whom the disciplinary proceeding is contemplated, to enable him to deal with the documents in the written statement.

The writ petition shall be decided on the following questions:-

- a) Whether subsistence allowance is being paid to the suspended employee during the period of suspension;
- b) Whether the documents relied upon by the employer had been supplied to the petitioner before the petitioner filed the written statement;
- c) Whether the disciplinary proceeding which has continued so far, could be sustained in law if it is found that the documents, relied upon by the employer, were not supplied to the petitioner.

Let the matter appear on November 24, 2023 under the heading 'Motion'. All the learned Advocates for the respondents will come back with necessary documents and instructions in this regard.

(Shampa Sarkar, J.)